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SENATE

REPORT
102-234

CONVEYING CERTAIN SURPLUS REAL PROPERTY LOCATED IN THE BLACK HILLS NATIONAL FOREST TO THE BLACK HILLS WORKSHOP AND TRAINING CENTER, AND FOR OTHER PURPOSES

NOVEMBER 23 (legislative day, NOVEMBER 20), 1991.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1770]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

On page 1, beginning on line 9 and continuing on page 2, line 1, strike "at a price to be mutually agreed on," and insert in lieu thereof, "at fair market value,".

PURPOSE OF THE MEASURE

The purpose of S. 1770, as ordered reported, is to convey approximately 2.2 acres of surplus property in the Black Hills National Forest to the Black Hills Workshop and Training Center.

BACKGROUND AND NEED

The Black Hills Workshop and Training Center, Inc. of Rapid City, South Dakota (hereinafter "the Center") is a private, nonprofit corporation that provides services to more than 300 disabled adults and children. The Center's property is contiguous to the Black Hills National Forest. In an effort to expand its facilities to accommodate a waiting list of 60 adults, the Center approached Forest Service officials about acquiring property in January 1990. In early 1990, the Forest Service agreed to assist the Center's expansion efforts and declared approximately 2.2 acres of its property surplus. Since then, however, the General Services Administration has been reviewing the land for disposal and anticipates its review

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will take an additional 12 months. It is also possible that the Center might not receive the property after the GSA review is completed and the property would be disposed of pursuant to the Federal Property and Administrative Services Act of 1949.

S. 1770 would allow the Center to purchase the 2.2 acre parcel at fair market value from the Secretary of Agriculture.

LEGISLATIVE HISTORY

S. 1770 was introduced by Senator Daschle on September 27, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on this measure on November 7, 1991.

At the business meeting on November 20, 1991, the Committee on Energy and Natural Resources ordered S. 1770, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on November 20, 1991, by a unanimous vote of a quorum present, recommends that the Senate pass S. 1770, if amended as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad*	
Mr. Akaka*	
Mr. Fowler*	
Mr. Shelby*	
Mr. Wellstone	
Mr. Wallop	
Mr. Hatfield*	
Mr. Domenici	
Mr. Murkowski	
Mr. Nickles	
Mr. Burns	
Mr. Craig	
Mr. Seymour	
Mr. Garn	

*Indicates voted by proxy

COMMITTEE AMENDMENTS

During the consideration of S. 1770, the Committee adopted an amendment that would require the Secretary of Agriculture to convey the property to the Center at fair market value rather than at a mutually agreed upon price.

SECTION-BY-SECTION ANALYSIS

Subsection 1(a) provides that notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center, Inc. of Rapid City, South Dakota, at fair market value, certain surplus property in the Black Hills National Forest.

Subsection (b) contains a description of the property to be transferred.

COST AND BUDGETARY CONSIDERATION

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1770. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1770, as ordered reported.

EXECUTIVE COMMUNICATIONS

On October 31, 1991, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 1770. On November 7, 1991, the Committee requested legislative reports from the General Services Administration. These reports had not been received at the time the report on S. 1770 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF LARRY HENSON, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the subcommittee, I appreciate the opportunity to present the views of the Department of Agriculture regarding S. 606, "To amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System," and S. 1770, "To convery certain

surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center."

I would like to briefly address each bill and then I would be glad to answer your questions.

S. 606, TO DESIGNATE THE ALLEGHENY WILD AND SCENIC RIVER

S. 606 would designate 85 miles of the Allegheny River as a component of the National Wild and Scenic Rivers System. Only 33 miles flow through or are adjacent to the Allegheny National Forest. The remaining 52 miles are downstream from the Forest boundary, and flow through private and State lands.

The Allegheny River study was authorized in 1978, and the Allegheny National forest initiated a study in late 1980. The study found that the river has outstandingly remarkable scenic values, river islands, and cultural resources. Of the 128 miles studied, 85 miles were determined to be eligible for designation. The Forest Service study has been completed, however, it has not been forwarded to the Secretary for his review and recommendation to the President.

Mr. Chairman, we cannot support S. 606 unless amended to relieve the Secretary of Agriculture from responsibility for administration of the segment of the Allegheny downstream from the Forest boundary. We believe the downstream segment could be more effectively managed by the State of Pennsylvania. If the downstream segment were to be administered by the Forest Service, the only method available for enforcement of the management plan would be land acquisition. We believe that local responsibility and management through development and enforcement of land use regulations to support the management plan would be more appropriate.

For the downstream segment, we recommend Federal designation in accordance with section 2(a)(ii) of the Wild and Scenic Rivers Act. Under this process, the river segment would receive the protections provided by the Wild and Scenic Rivers Act, but would be administered by an agency or political subdivision of the State. To initiate this process, the segment must first be designated as a component of the Pennsylvania state rivers program and be administered by the appropriate State agency. Anytime after State designation, the Governor may then petition the Secretary of the Interior, who, after determining that the segment meets the criteria of the Wild and Scenic Rivers Act, would incorporate the segment into the Federal system.

In this case, because the Forest Service has studied the segment outside the Forest, and determined that it is eligible and suitable for protection under the Act, we would support abbreviating the statutory process I just described. Our Supplemental Statement provides language negating the need for the Governor to apply to the Secretary of the

Interior. Instead, our language would provide that the segment would be immediately designated upon inclusion in the Pennsylvania Scenic Rivers Program and upon determination by the Secretary of the Interior, in consultation with the Secretary of Agriculture that the State's management plan would be protective of the river's outstandingly remarkable values. We believe such a process could significantly expedite designation, as compared to the normal process used for section 2(a)(ii) designations.

We have three other concerns with S. 606.

First, section 1 provides that the river segments would be administered through a cooperative agreement with the Commonwealth of Pennsylvania and certain counties. This provision is unclear in regard to how the river would be administered if the Commonwealth or the counties and the Secretary could not agree on the terms of a cooperative agreement.

Our second area of concern involves the interim measures. Section 3(b) of S. 606 would required the Secretary to prepare land and water use control measures. We believe that section 6(c) of the Wild and Scenic Rivers Act authorizes the Secretary to issue guidelines specifying standards for local zoning ordinances that would protect the river's outstandingly remarkable values without intruding on State and local governmental prerogatives. Our recommended amendment for section 3(b) is provided in a Supplemental Statement.

Lastly, we note that several references are made to the "Allegheny National Recreation River." This reference should be changed to the "Allegheny Wild and Scenic River," wherever it appears in S. 606. If designated, the Allegheny would be a wild and scenic river, and the classification would be recreational.

In summary, Mr. chairman, we support the concept of designating the Allegheny River. However, we do not believe the Secretary of Agriculture should have a major role in administration of the river corridor outside the National Forest boundary.

S. 1770, TO CONVEY SURPLUS LANDS OF THE BLACK HILLS NATIONAL FOREST

The Department of Agriculture would not object to enactment of S. 1770, if amended as we recommend, but we defer to GSA concerning disposal of surplus property under the Federal Property and Administrative Services Act of 1949.

S. 1770 would direct the Secretary of Agriculture to convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota, certain surplus real property located in the Black Hills National Forest.

The lands described in S. 1770 (less than 3 acres) comprise a portion of the Pactola Ranger Station site. These lands were reported as excess by the Forest Service to the

Secretary of Agriculture on August 5, 1991. Federal Property Management Regulations (FPMR's) call for review and acceptance of such a report by the General Services Administration (GSA). Therefore, the excess property report has been submitted by the Department to GSA. Additional information requested by GSA has also been submitted, but the report has not yet been finally accepted by GSA.

If upon final review, GSA accepts the report, the next step will be a determination by GSA as to whether the lands are needed for any other Federal purposes. Assuming the lands are not needed by another Federal agency, GSA would then declare the property to be surplus and available for disposal. Disposition of surplus lands can be handled in a variety of ways including transfer to local governments, negotiated sale, or sale by auction.

The Forest Service has notified GSA of the interest in acquiring all or part of the excess property by the Black Hills Workshop and the South Dakota National Guard. Both entities have property contiguous to the land which we have declared excess. We understand that they are interested in acquiring different portions of the excess property, so their needs are not in conflict. Therefore, we have no objection to the conveyance described in S. 1770, provided that GSA declares the property to be surplus. We understand that GSA has been notified by the Department of the Interior that the Bureau of Indian Affairs has an interest in the property. If enacted, we recommend that S. 1770 be amended to convey the land at the appraised value, rather than at a price "to be mutually agreed on" as currently specified in the bill.

This concludes my testimony. I request that the supplemental statement attached to my written statement be included in the hearing record. I would be pleased to answer any questions you may have.

USDA Supplemental Statement

Recommended language for designation of those segments of the river downstream from the southern most Allegheny National Forest boundary near Tionesta:

FEDERAL PROTECTION FOR STATE DESIGNATED RIVERS

"(a) Upon fulfillment of the requirements of subsection (b) of this section, the Allegheny River from the National Forest boundary near Tionesta to Acorn Island, and from Franklin to Emlenton, a total of 52 miles, shall immediately become components of the National Wild and Scenic Rivers System.

"(b) Based on designation by the State Legislature of the State of Pennsylvania of the Allegheny River segments described in subsection (a) of this section as a component of the Pennsylvania Scenic Rivers Program (Pennsylvania Scenic Rivers Act of 1972), these river segments shall be

included in the National Wild and Scenic Rivers System upon notification to the Secretary of the Interior by the Governor of the State of Pennsylvania of the State's intention that such river segments be included in the National Wild and Scenic Rivers System and upon the determination by the Secretary of the Interior, in consultation with the Secretary of Agriculture, that the State's management plan is protective of the river's outstandingly remarkable values: *Provided*, That such river segments shall be permanently adminstered as components of the National Wild and Scenic Rivers System pursuant to Section 2(a)(ii) of the Wild and Scenic Rivers Act by an agency or political subdivision of the State of Pennsylvania."

Delete section 3(b) in its entirety and substitute the following:

"(b) GUIDELINES FOR ZONING.—As soon as practicable after enactment of this Act, the Secretary may issue guidelines specifying standards for local zoning ordinances pursuant to section 6(c) of the Wild and Scenic Rivers Act. Such guidelines shall have the objective of protecting the outstandingly remarkable values, as defined by the Secretary, of the Allegheny Wild and Scenic River and, once issued, shall have the force and effect as provided in section 6(c) of the Wild and Scenic Rivers Act."

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1770, as ordered reported.

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